

Department of Navy



Show Me the Money...

(FAR Part 22)



Goals & Objectives

- Goal: Understand the application of labor laws in federal contracts
 - Objective 1: Understanding wage determination(s) (WD)
 - Objective 2: Impact of Unionization



Policy

Compensation.

- (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.
- (2)(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).



Wage Determinations (WD)




- U.S. DOL determines wages
- Prevailing WD based on DOL survey data
 - Standard area WD's (2 for each area)
 - Non-standard WD's
 - National
- Collective Bargaining Agreements (CBA)
- Predecessor contractor's CBA
 - Same work/same location
 - Wages & fringe benefits only



Wage Determinations (WD)



- DOL issues two standard WD's for each locality---identical except application of H&W
 - Odd Numbered- (i.e. 2005-2103) (each employee) requires H&W be applied to all hours paid for up to 40/week (includes vacation and holiday hours paid)
 - Even Numbered- (i.e. 2005-2104) (average F/B) - requires H & W be applied to all hours paid for up to 40/week (includes vacation and holiday)
 -  **H&W** **holiday)**
- ALWAYS** use the odd numbered WD unless the even numbered WD was previously applied to the work
*when consolidating requirements containing both odd and even WD numbers - use odd only



Wage Determinations (WD)

- Nonstandard WD's reflect prevailing wages in specific industries for designated locations
 - They may only be used as outlined on the WD
 - Specific locations
 - Specific agencies
- Non-Standard WD's (examples)
 - Fast Food
 - Food and Lodging Services
 - Maintenance systems (CFTs)

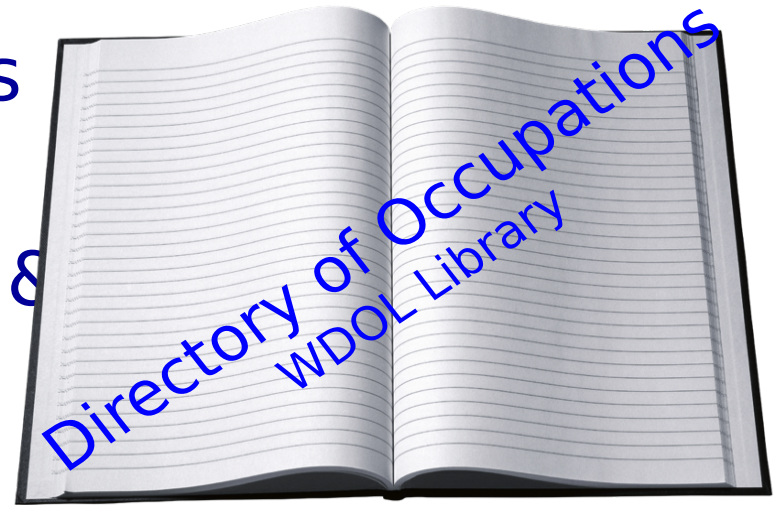
Contracts can include more than one type of WD



Wage Determinations (WD)



- WD's contain 250+ classifications
- Each classification is described in the Directory of Occupations
- WD Contents:
 - Classifications, Wages &
 - Vacation & holiday
 - Publication date
 - Location
 - Other





Additional Classifications



- Government: Additional classification necessary
 - e-98(on-line request) at WDOL
- Information to complete:
 - Relevant procurement dates
 - County and State where work will be performed
 - Type of Service to be performed
 - Occupational classes & number of employees
 - Hourly Rates
 - Information on incumbent contractor
 - Previous WD or CBA



Additional Classifications

Conformance--If contractor requires classification not listed on WD attached to contract they must **Conform** a rate of pay to that position(SF-1444)

- Must provide a “reasonable relationship” between classification and rate paid(or DOL will decide)
Initiated prior to performance of work by employee
 - Contractor prepares an SF1444-Request for Authorization of Additional Classification and Rate - employees sign
 - CO comments if agree/disagree - forwards to DOL
 - DOL issues letter addendum to WD in contract
 - Copy provided to employee, posted to wage determination and maintained in contract file
 - NO adjustment to contract price at time of conformance!
 - Wage rate is “indexed” in future contract years




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Contracting Officer shall require the contractor classify
unlisted
classes so as to provide reasonable relationship



Updating Wage Determinations

FAR 22.1007- requirement to obtain WD

- Each new solicitation > \$2,500
- Each contract modification which brings the contract above \$2,500, and
 - Extends contract pursuant to option or extension
 - Changes scope where labor requirements are significantly affected
- Annual anniversary
-  **Beware!** Caution: Do not change the Wage Determination after start of contract performance



Wage Determination Revision/Updating



Deadlines for WD revisions to impact contracts (FAR 22.1012)

- Performance starts < 30 days after award/option exercise, the deadline is the day of award or exercise of the option or extension
- Example: Option exercised on 15 Sep, performance begins 1 Oct, deadline is 15 Sep
- Performance starts > 30 days after award or option exercise, the deadline is “not less than” 10 days prior to the start of performance (excluding phase-in time)
- Example: Contract awarded on 15 Aug, performance begins 1 Oct, deadline is 21 Sep



**WDOL - Alerts provides email notification
when WD's change - YOU MUST REQUEST**



Check on Learning

Q. What are the different types of WDs?

A. Prevailing & CBA based

Q. When is CBA based WD incorporated as WD?

A. Predecessor KTR CBA same work, same location

Q. What is the requirement to obtain a SCA WD?

A. Service contract value >\$2,500 - new solicitation, option or extension





Collective Bargaining Agreement (CBA)



- Right to bargain collectively is recognized by the National Labor Relations Act (NLRA), as amended:
 - Protected & Enforced by National Labor Relations Board (NLRB)
 - Labor is then represented by a union or employee's association
- CBA
 - Written agreement between labor & management



Impact of Unionization



- CBAs impact service contracts in several ways
 - CBA-based WDs
 - Typically contain higher wages & yearly increases
 - Additional fringe benefits (FB) - health care, vacation, sick leave, pension contributions, paid time off, & periodic re-negotiation (every 2-3 years)
 - Can be amended by agreement of both parties
 - FAR 22.1010 Notification required at each renewal of services(options extensions



SCA and CBA's



52.222-41(f)

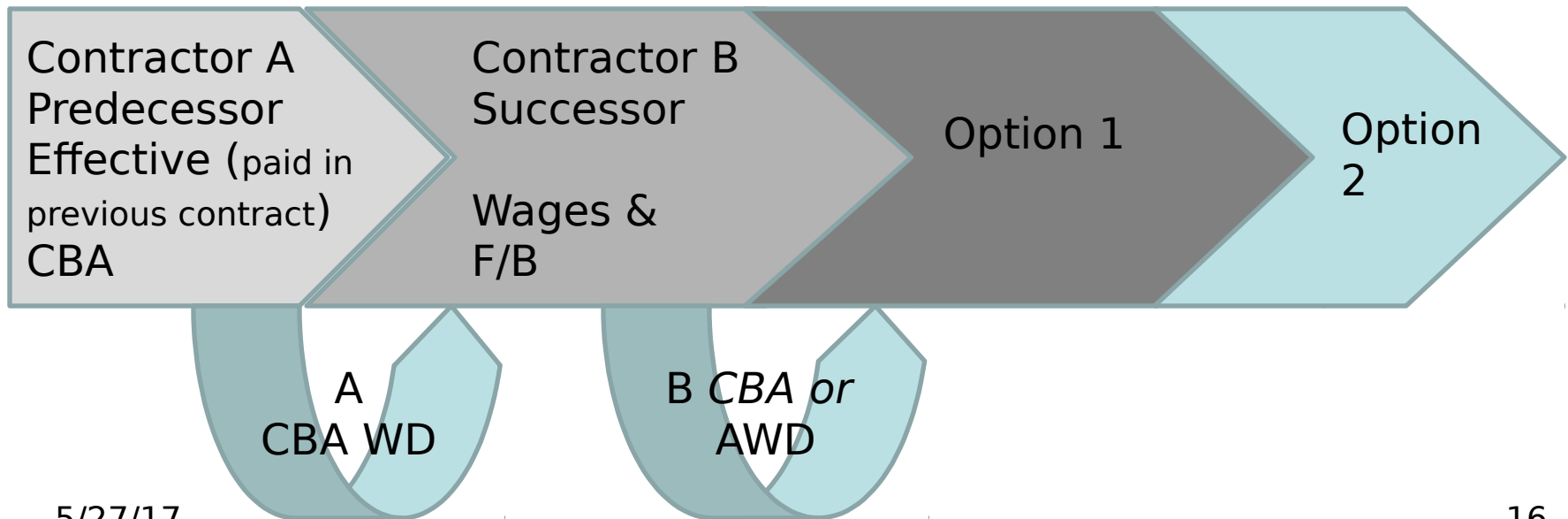
Successor contractors performing on contracts in excess of \$2,500 for substantially the same services performed in the same locality must pay wages and fringe benefits (including accrued wages and benefits and prospective increases) at least equal to those contained in any bona fide CBA(regardless of whether or not such employee was employed under the predecessor contract) entered into under the predecessor contract



Wage Determinations



- CBA (FAR 52.222-41(f))
 - Successor/Predecessor relationship
 - Same service/same location





Impact of Unionization



- Resultant price adjustments
 - Same as inclusion of updated WD
- Successorship
 - Same Work/Same Location
- Strike possibility
 - Know expiration of CBA
 - Government **must** remain neutral during contractor labor disputes
 - FAR 22.101 Labor Relations-"Agencies shall remain impartial concerning any dispute between labor and contractor management..."



CBA



- CBA agreement between contractor and employees
- Federal Contracts---
 - CBA wages and fringe benefits **ONLY**
 - Coversheet provided by *DOL*
 - Fringe benefits “Bona fide” (key point for price adjustments)
- CBA must be provided to CO (FAR 52.222-41(m))



CBA



- CBA becomes an important contract document
 - read & understand it!
 - Will affect contract costs if incorporated as a CBA-WD
 - Will affect negotiation of other CBA's in local area (like housing comparatives - can set precedence)
- CBA Contents: effective date of the agreement
 - Beginning & end
 - Specifies effective dates of raises, benefit increases, etc.
 - Effective dates of raises or increases may not coincide with effective date of agreement



CBA



Prior to incorporation-

Review CBA thoroughly:

- “Contingency Language” - such as this agreement is applicable provided the government will allow as price adjustment (or other) contingency can be challenged
- Complete e-98 wage determinations on-line (WDOL) with discussion of the contingency language
- DOL makes determination and provides direction



How to create a CBA WD



- WWW.WDOL.gov
 - Follow the menu for selecting SCA WDs
 - When asked “are any employees performing work subject to a CBA?” select yes
 - Get CBA/continue
 - GET assumes prior CBAWD(revision number each time)
 - Continue assumes New entry
- Must be revisited periodically, same as standard WDs - FAR 22.1007, 29 CFR 4.4



WDOL.Gov



CBA

Wage Determinations OnLine.gov

DOL
At Variance or
Contingency

Service Contract Act

- Selecting SCA WDs
- e98
- Archived WDs
- WDs due to be revised
- PACT (Price Adjustment Calculation Tool) **NEW!**

- SCA WDs
- WDs to be revised
- Rollover Crosswalk **NEW!**

Related Information

- Agency Labor Advisors
- Library
- DOL Wage and Hour Website

Welcome to the Wage Determinations OnLine Program!

This website provides a single location for federal contracting officers to use in obtaining appropriate Service Contract Act (SCA) and Davis-Bacon Act (DBA) wage determinations (WDs) for each official contract action. The website is available to the general public as well. Guidance in selecting WDs from this website is provided in the WDOL.gov User's Guide.

Alternatively, the WDOL.gov Program also provides contracting officers direct access to the Department of Labor's (DOL's) "e98" website to submit a request for SCA WDs for use on official contract actions. In some instances, the WDOL.gov Program will not contain the appropriate SCA WD, and contracting officers will be directed to use DOL's e98 website in order to obtain the required SCA WD. DOL will provide the contracting officer with an SCA WD through the e98 system.

Questions pertaining to the application of contract labor standards or the selection of appropriate WDs for specific contract actions should be referred to the contracting officer or to the designated agency labor advisors. Questions pertaining to this website may be referred to the WDOL.gov Webmaster.

The WDOL.gov Program and the User's Guide does not relieve the contracting officer or other program user of the requirement to carefully review the contract or solicitation, federal acquisition regulations, and/or DOL regulations related to these actions.

Where the contracting officer selects a SCA or DBA WD using the WDOL.gov Program and DOL later determines, whether before or after contract award, that the appropriate SCA or DBA WD was not incorporated in a covered contract, the contracting officer, within 30 days of notification by DOL, shall include in the contract the applicable WD issued by DOL.

News and Updates...

- » **NEW!** Effective June 17, 2012, the new Health and Welfare Fringe Benefit Rates will increase for all Service Contract Act wage determinations. See [DOL All Agency Memorandum \(AAM\) 211](#). Revised WDs reflecting the new benefit rates will be available at the Wage Determination On-Line website (<http://www.wdol.gov>) on or about June 17, 2012. The Electronic SF-98 form will be temporarily unavailable because of the update from June 13 through June 17, 2012. No e98 requests will be processed at that time. The system will be back online once the update is completed.
- » **NEW!** Issuance of the 2012 Service Contract Act health and welfare rate update will occur late June/early July 2012. Calculation of this rate is based upon the Bureau of Labor Statistics (BLS) Employment Cost Index (ECI). The Wage and Hour Division will use BLS's quarterly data that is published in mid-June.
- » The Department of Labor's Wage and Hour Division (WHD) is scheduled to host six [Prevailing Wage Conferences](#) fiscal year 2012. The conferences will address the administration and enforcement of the Davis Bacon Act and McNamara-O'Hara Service Contract Act. All conferences are free and open to the public. Conference attendees will learn valuable information dealing with the process of obtaining

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CBA-Based WDs

The Agency Contracting Officer should complete the following form in order to obtain a CBA WD for an SCA-applicable collective bargaining agreement. The Contracting Officer must prepare a separate CBA WD for each covered CBA applicable to a contract action (including separate CBA WDs for prime and subcontractors)

WDC User's Guide Sec. B.5.b.(2)

* Indicates a required field.

Wage Determination Number: The system will generate the appropriate SCA WD number

Revision Number: 0

* Contract Services:

* Contracting Activity:

* State

* County:

* Prime or Subcontractor Name:

* Prime or Subcontractor

Note, a separate WD must be created for each CBA prime & subcontractors. This may result in multiple CBA-based WDs for the contract.



CBA Wage Determination

REGISTER OF WAGE DETERMINATION UNDER U.S. DEPARTMENT OF LABOR
THE SERVICE CONTRACT ACT EMPLOYMENT STANDARDS ADMINISTRATION

By direction of the Secretary of Labor

WAGE AND HOUR DIVISION

WASHINGTON D.C. 20210

Wage Determination No.: CBA-2008-2032

Johnny Appleseed

Director, Division of Wage Determinations

Revision No.: 0

Date Of Last Revision: 4/16/2011

State: Alabama
Area: Autauga

Employed on Pismo Beach AFB contract for slingshot testing services.

Collective Bargaining Agreement between contractor: ACME Corporation
Anvil Division and union: Association of Anvil makers Lodge 47, effective
12/23/2010 through 12/21/2011.



Check on Learning



Q. What are the conditions that must be met to include CBA as WD in contracts?

A. Predecessor/successor relationship & no contingencies or “at variance”

Q. What part of the CBA is the successor bound to?

A. Wage & fringe benefits-
ONLY





Impact of Unionization

- FAR 22.1010 - Notification to interested parties...
- Requires notice to be sent to union and contractor
 - “Starts clock” on timeliness deadlines
 - Set forth in FAR 22.1012-2
 - 30 days before earliest procurement date
 - Give applicable dates
- Example: “This notifies you that the Navy intends to exercise the option to perform the work under the contract for the purpose of the performance to begin 1 Oct 2014.”
 - Retain a copy of the notice and get proof of delivery



Impact of Unionization



- Expiration of CBA's
- Maintain situational awareness
 - Status of negotiations
 - Unions provide a notification
- FAR 52.222-1 Notice to the government of labor dispute
- Maintain neutrality
 - FAR 22.101-1 (sound relations with industry & labor)
 - SECNAVINST 4600.36A Contractor Industrial Labor Relations
- "No Strike" provision no longer



WWW.WDOL.GOV

Wage Determination Online Homepage - Windows Internet Explorer

http://www.wdol.gov/

★ Favorites | ★ Suggested Sites | ★ Air Force Personnel Services

Wage Determination Online Homepage

Wage Determinations OnLine.gov

Providing public access to federal wage determinations and related information.

WDOL.gov is part of the Integrated Acquisition Environment, one of the E-Government initiatives in the President's Management Agenda. It is a collaborative effort of the Office of Management and Budget, Department of Labor, Department of Defense, General Services Administration, Department of Energy, and Department of Commerce.

HOME | **FAQs** | **User Guide** | **Help**

Service Contract Act	Davis-Bacon Act	Related Information
<ul style="list-style-type: none">• Selecting SCA WDs• e98• Archived WDs• WDs due to be revised• FACT (Price Adjustment Calculation Tool) NEW!	<ul style="list-style-type: none">• Selecting DBA WDs• Archived WDs• WDs due to be revised• Rollover Crosswalk NEW!	<ul style="list-style-type: none">• Agency Labor Advisors• Library• DOL Wage and Hour WDs

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Use when special handling by DoL is needed

Any Request-Odd/Even Standard/Non-Standard CBA

Good Resource

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Trusted sites | Protected Mode: Off



Wage Determinations

- Incorporation of wage determinations in contracts
- Contracting officer is responsible to select and incorporate wage determinations in solicitations/contracts
 - FAR 22.1007 “The contracting officer shall obtain wage determinations....:

EXAMPLE:

Section J Attachments

Attachment 1-Wage Determination 2004-2121, R24 dated 6/5/2015

- Attach the entire wage determination, not bits and pieces
- Maintain CBA in official contract file-don't attach to sol/contract



Check on Learning



Q. What is the notification to interested parties?

A. Notification that “starts” the clock on timeliness deadlines for incorporation of CBA as WD

Q. Who is the notification provided to?

A. Contractors and unions(send certified return receipt and copy to official contract file)





Check on Learning

Q. What is the Government's position regarding contract labor relations?

A. Agencies shall remain impartial concerning any dispute between labor and contractor management and not undertake the conciliation, mediation or arbitration of a labor dispute

